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Viewing cable 06SANSALVADOR1166, EL SALVADOR PASSES HISTORIC GOVERNMENT ETHICS LAW

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#06SANSALVADOR1166.

Reference ID	Created	Released	Classification	Origin
06SANSALVADOR1166	2006-05-03 19:33	2011-08-30 01:44	CONFIDENTIAL	Embassy San Salvador

Appears in these articles:

<http://www.wikileaks.elfaro.net/es/201105/notas/4228/>

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TO RUEHC/SECSTATE WASHDC PRIORITY 2230
INFO RUEHZA/WHA CENTRAL AMERICAN COLLECTIVE PRIORITY
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C O N F I D E N T I A L SAN SALVADOR 001166

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E.O. 12958: DECL: 05/02/2016

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SUBJECT: EL SALVADOR PASSES HISTORIC GOVERNMENT ETHICS LAW

Classified By: DCM Michael A. Butler, Reasons 1.4 (b) and (d)

¶1. (C) SUMMARY: El Salvador's departing Legislative Assembly on April 25 unanimously approved a comprehensive and

robust ethics law to oversee conduct of public sector employees across all branches of government, following an often-frustrating five-year Embassy effort to institute such legislation. Three weeks ago, most political actors, including the executive, showed little interest in the law's passage. Ambassador and emboffs then put on a full-court press with the political parties and gained their support. On the day of the law's passage, however, the Embassy learned that the National Conciliation (PCN) and ARENA parties intended to water down the law's efficacy by placing it under the oversight of the unreliable, and perhaps corrupt, Comptroller's Office (Corte de Cuentas). Embassy's eleventh-hour lobbying finally convinced the ARENA and PCN leadership that passage of their "alternate" bill would damage El Salvador's image. When the vote was taken, all political parties, including the FMLN, supported the bill. Embassy's strongest allies in support of the bill were the moderate-left Revolutionary Democratic Front (FDR) and Christian Democratic Party (PDC), both of whom refused to support ARENA efforts to elect Supreme Court magistrates until the ethics bill was passed. END SUMMARY.

BACKGROUND

12. (SBU) In 1988, the Government of El Salvador (GOES) ratified the Inter-American Convention Against Corruption, which entailed its commitment to approve and implement a government ethics law covering all government employees. In conjunction with USG reconstruction assistance in the wake of 1998 Hurricane Mitch, the U.S. in 2000 signed a bilateral anti-corruption agreement with the GOES and allocated \$350,000 for the creation of a public employees code of ethics and the establishment of an office of government ethics. USAID was tasked with the implementation of this agreement, and assisted the Flores administration (1999-2004) with designing a code of ethical conduct and the establishment of a GOES government ethics office.

13. (SBU) In President Flores's view, an independent government institution such as the Court of Accounts (Comptroller's Office) represented the most logical home for an office of government ethics; USAID subsequently provided technical assistance to the Court of Accounts to review the draft bill and make modifications necessary to adjust it to its own internal legal framework. The Court of Accounts presented the revised ethics law to the Legislative Assembly in March 2003; the bill was passed to the Legislative Assembly's Legislation Commission, where it was tabled and languished in neglect. With Embassy support, the Legislative Assembly withdrew the ethics bill from the Legislation Commission in 2005, and established a new ad-hoc subcommission to draft a more comprehensive ethics bill using many of the principles, ideas, and language contained in the bill submitted by the Court of Accounts. The Legislative Assembly on April 25 approved, with no dissenting votes, the Government Ethics Law that will apply to all public employees.

CONTENT OF THE LAW

14. (SBU) The most significant features of the Law include the following:

- The Law's objective is to promote ethical conduct in government by preventing, detecting, and sanctioning corruption by public servants who utilize public office for private gains.

- All persons who render service to any government entity, within or outside the country, including all direct-hire Executive, Judicial, and Legislative employees, municipal and other local government workers, autonomous and independent government institutions, as well as contractors, are covered.

- The Law establishes ethical prohibitions, exceptions, public servants, rights, complaint procedures, and citizen

rights, and includes as sanctions warnings, fines, and dismissals.

-- In addition to implementation via ethics commissions to be created within each government institution, a new Government Ethics Tribunal will be established as the supreme administrative authority charged with enforcing the law; the Tribunal's five members will include one representative each from the Legislative Assembly (who will serve as President), the Presidency, the Supreme Court, the Court of Accounts, and the Attorney General's Office/Public Defender's Office. Member terms of office will be five years, after which they may seek reappointment; each member will also have his/her own alternate.

-- Functions of the Tribunal will include: promotion, dissemination, and training on ethics principles among public employees; resolution of corruption cases and imposition of sanctions for violations; establishment of mechanisms for public administration transparency; formulation and implementation of policies regarding the appropriate use of public resources; and the selection of members to be appointed to ethics commissions in each government institution.

-- The ethics commissions of each government institution will be composed of three members with terms of five years; their primary function will be to publicize the law among their respective groups of employees, to train personnel, to receive complaints, and to follow up on Tribunal resolutions and propose administrative measures to prevent and curb corruption. (Note: The National Mayors Association, COMURES, will oversee the establishment of the commission that will oversee municipal governments. End note.)

-- The Ministry of Education will assist in raising awareness of the new Law by including instruction on the importance of ethics and the responsibilities of public servants in public education programs at all appropriate grade levels. USAID's Transparency and Governance Program will assist the GOES in implementing the law through technical assistance, training, and observational exercises.

15. (C) COMMENT: Notwithstanding President Saca's 2005 decree instituting an ethics code for executive branch employees, the GOES and Legislative Assembly had resisted the Embassy's efforts to pass such a law for three years. In the end it did not come easy; Embassy learned of a last-minute plan by ARENA deputies and their center-right National Conciliation Party (PCN) allies to substitute alternate legislation which would have placed oversight of ethics law compliance under the discredited Court of Accounts. In the ultimate approval of the law in the waning hours of the outgoing Legislative Assembly, support from the loose center-left coalition of the Revolutionary Democratic Front (FDR), Christian Democratic Party (PDC), and Democratic Change (CD) proved critical. FDR President Julio Hernandez, Deputy Hector Silva (CD), and PDC President Rodolfo Parker were particularly helpful in achieving this objective. (Note: In a two-hour visit the weekend following passage of the Law, World Bank President Paul Wolfowitz singled out approval of the public ethics law as an important achievement. End note.)
Barclay